

OCT 25 2006

REMARKS/ARGUMENTS

The outstanding Office Action rejects Claims 3, 5, and 6 and states objections to Claim 4. Claims 3, 5, and 6 are cancelled in this response. Claim 4 is amended. The various grounds of rejection are discussed below. Claims 2, 4, 7-10 and 60-63 are now pending in this application.

Objections to the Claims

Claim 4 is objected to as being based on a rejected base claim (Claim 3). Accordingly, Applicants have amended Claim 4 to independent form. These changes are believed to address the concerns mentioned by the Examiner. Therefore, the Applicants respectfully request that the pending objections to the Title be withdrawn.

The Abstract

The Abstract has been amended to more concisely describe the invention. Accordingly, these changes are believed to address the concerns mentioned by the Examiner. Therefore, the Applicants respectfully request that the pending objections to the Abstract be withdrawn.

Rejections Under 35 U.S.C. § 112

Claims 2 and 4 have been rejected under 35 U.S.C. § 112, 2nd paragraph as being indefinite.

As to Claim 2, the Applicants have clarified the --support band-- language by amendment to "conveyor belt" as well as other amendments placing this claim in independent form.

As to Claim 4, the Applicants have clarified the objected to language and made other amendments to clarify the subject matter of this claim.

In summary, the Applicants respectfully submit that all claims subject to the 35 U.S.C. § 112 rejection have been the sufficiently amended and all offending language has been removed from these claims. Therefore, the Applicants respectfully submit that the foregoing amendments address these grounds of rejection and, therefore, Applicants respectfully request that these rejections be withdrawn.

Rejections Under 35 U.S.C. § 102

Claims 1-8 have been rejected under 35 U.S.C. § 102(b) as being anticipated by *Paddock*.

As to Claim 1, this claim is cancelled thereby obviating the need to discuss this claim in detail.

The Applicants respectfully traverse the remaining grounds of rejection for the reasons expressed in detail below. In the Action, it is stated that the “parallel conveyor chains 12” of *Paddock* are a “belt” as claimed. This is an unfair interpretation of the term belt and a bit of a stretch in general. With reference to the claims, the Applicants explain that the applied references and grounds of rejection are not applicable to the invention as claimed.

Claim 2 is now amended to independent form including all limitations of former Claim 1. Claim 2 recites “a conveyor belt that ... includes a support surface having a plurality of drainage openings formed therein”. The applied *Paddock* reference has no support surface being a pair of chains having holders 10 suspended thereon. Absent a belt with a surface, the cited *Paddock* reference does not teach all claim limitations of Claim 2. Accordingly, because the cited art fails to teach all claim elements of the claimed invention, the cited art does not establish a *prima facie* case for anticipation and therefore the reference is insufficient to establish a rejection under 35 U.S.C. § 102. Therefore, the Applicants respectfully request that this ground of rejection be withdrawn as to Claim 2 and the claims depending therefrom (Claims 7-10 and added Claim 63).

Claim 3 is now amended to independent form including all limitations of former Claim 1. Claim 3 has no change to the scope of the claims and no amendment is made to overcome any art-based rejection. Claim 3 recites “a support belt” as explained above. The chains are not a “support belt”. Additionally, and importantly, Claim 3 recites “a plurality of cushioned produce holders arranged on the support belt ... arranged so that produce products placed between the cushioned paddles are held in place as the belt is in use” (emphasis added). The applied *Paddock* reference has pads arranged so that oranges 32 set on holders 10 are cushioned resting on the pads. The fruit cannot be “placed between the cushioned paddles” of *Paddock* because the fruit would merely drop between the open space between the chains with predictable unpleasant and undesirable outcomes. Thus, the cited art cannot function as the claimed invention nor does it teach all of the limitations recited in Claim 3. Absent such a teaching, the cited *Paddock* reference does not teach all claim limitations of Claim 3. Accordingly, because the cited art fails to teach all claim elements of the claimed invention, the cited art does not establish a *prima facie* case for anticipation and therefore the reference is insufficient to establish

a rejection under 35 U.S.C. § 102. Therefore, the Applicants respectfully request that this ground of rejection be withdrawn as to Claim 3 and the claims depending therefrom (Claims 4-6).

Thus, for at least these reasons, the Applicants respectfully submit that the cited portions of *Paddock* do not establish a *prima facie* case for anticipation as to amended Claims 1-8. Because the cited art fails to teach all claim elements, it is insufficient to establish a rejection under 35 U.S.C. § 102. Therefore, the Applicants respectfully request that this ground of rejection be withdrawn as to Claims 1-8.

Rejections Under 35 U.S.C. § 103

Claims 9 and 10 stand rejected under 35 U. S. C. §§ 103(a) as being unpatentable over *Paddock* in view of *Grabscheid*.

Applicants respectfully traverse this rejection as well. Applicants have already pointed out the deficiencies of the *Paddock* reference as to base Claim 2. Nothing additional provided by the added cited portions of *Grabscheid* teach or suggest the claimed "annular holding pads having an annular shape configured so that produce products placed in an open central portion of the annular holding pads are held in place in a desired orientation as the belt is in use". The pads of *Paddock* are ... potato-shape (for lack of a better term) and the pads of *Grabscheid* are truncated pyramids (e.g., *Grabscheid* Fig. 4) or truncated cones (e.g., *Grabscheid* Figs. 9-15). An annular pad is depicted in Fig. 4(e)-4(g) of the instant inventive disclosure. Such annular pads can be "ring-shaped" (hence annular) having an open middle portion exposing the belt surface which supports the bulk of the lettuce or romaine product. Nothing like this is taught in the cited art.

Absent a teaching or suggestion of these recited limitations, the cited art fails to establish a *prima facie* case of obviousness as to the rejected Claims 9 and 10. Therefore, the Applicants respectfully submit that the cited reference is insufficient to establish that the claimed invention is obvious. Accordingly, Applicants respectfully request that the pending ground of rejection for Claims 9 and 10 be withdrawn.

Moreover, Applicants see no real motivation to combine the belt technologies of *Grabscheid* with the chain approach of *Paddock*. There has been a need for this technology for decades yet no suitable product or invention has been introduced until now. This is fairly strong

indicia that the cited combination (which does not teach all of the necessary limitations anyhow) is not an obvious combination.

Thus, in summary, for at least these reasons, the Applicants respectfully submit that the cited portions of *Paddock* and *Grabscheid* do not establish a *prima facie* case for obviousness as to Claims 9 and 10. Because the cited art fails to teach all claim elements, it is insufficient to establish a rejection under 35 U.S.C. § 103. Therefore, the Applicants respectfully request that this ground of rejection be withdrawn as to Claims 9-10.

New Claims:

In an effort to clarify certain patentable subject matter, Claims 60-63 have been added to the application. Applicants respectfully request consideration and allowance of these new claims.

For example, Claim 60 recites “a support belt having an inner surface and an outer surface and penetrated with many drainage openings that enable fluids to drain off the support belt and drain off produce products carried by the support belt; and a plurality of cushioned produce holders arranged on the outer surface of the support belt, wherein the cushioned produce holders are arranged to hold produce products in place on the outer belt surface between adjacent cushioned produce holders in a desired orientation during operation of the belt, and wherein the cushioned produce holders are configured to limit bruising and damage to the produce products placed on the produce holders”. No reasonable combination of art has been offered to teach a belt having a surface “penetrated with many drainage openings” and “cushioned produce ... arranged to hold produce products in place on the outer belt surface between adjacent cushioned produce holders”. The ideal combination of support, cushioning, and drainage has not found utility and is not known in the art until now. Accordingly, the Applicants believe that for at least these reasons this claim should be allowed.

In other examples, Claims 61 and 62 recite “a support belt having ... an outer surface ... penetrated with many drainage openings ... and a plurality of cushioned produce holders ... arranged to hold produce products in place on the outer belt surface between adjacent cushioned produce holders”. Moreover, as to Claim 61 no reasonable combination of art has been offered to teach a belt having “cushioned produce holders” that comprise “a layer of material affixed to the support belt in a bowed upward loop configuration enabling the produce products to be held

in place on the outer belt surface between the upward loop of two adjacent cushioned produce holders enabling the produce product to be held in a desired orientation". This teaching of the invention provides a manufacturable, efficient, low cost cushioned paddle as in needed by the belt. Much the same can be said of Claim 62. Accordingly, the Applicants believe that for at least these reasons these claims should be allowed.

Claim 63 teaches a variation in implementation that describes a more manufacturable belt. In Claim 63, the belt recites that "the cushioned holding pads comprise pads having four cushioned walls surrounding an opening that exposes a surface of the support belt, wherein the opening is configured so that produce products placed on the surface of the support belt are held in a desired orientation by the four cushioned walls as the belt is in use." An example implementation of one such pad embodiment is shown in Fig. 4(h) and the associated descriptive paragraphs of the Specification.

Conclusion:

In view of the foregoing amendments and remarks, it is respectfully submitted that the claimed invention as presently presented is patentable over the art of record and that this case is now in condition for allowance.

Accordingly, the Applicants request withdrawal of all pending rejections and request reconsideration of the pending application and prompt passage to issuance. As an aside, the Applicants clarify that any lack of response to any of the issues raised by the Examiner is not an admission by the Applicants as to the accuracy of the Examiner's assertions with respect to such issues. Accordingly, Applicants specifically reserve the right to respond to such issues at a later time during the prosecution of the present application, should such a need arise.

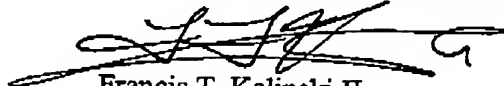
As always, the Examiner is cordially invited to telephone the Applicants' representative to discuss any matters pertaining to this case. Should the Examiner wish to contact the undersigned for any reason, the telephone number set out below can be used.

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Additionally, if any fees are due in connection with the filing of this Amendment, the Commissioner is authorized to deduct such fees from the undersigned's Deposit Account No. 50-0388 (Order No. AGHTP001D1).

Respectfully submitted,

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